IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

WP(C).No. 33596 of 2007(Y)

OS.96/2005 of MUNSIFF COURT, RANNI

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PETITIONER:

M.C. VARGHESE,
MANAPPURATHU VEEDU, VETTIPPURAM,
PATHANAMTHITTA VILLAGE, PATHANAMTHITTA.

BY ADV. SRI.THOMAS ABRAHAM
SRI.DIPU.R

RESPONDENTS:

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1. M.C. MATHEW,
MANAPPURATHU VEEDU, UTHIMOODU,RANNI VILLAGE,RANNI.

2. SOSAMMA, M/O. M.C. MATHEW,
MANAPPURATHU VEEDU, UTHIMOODU,RANNI VILLAGE,RANNI.

3. K.S. VINEETH,
VINOD BHAVAN, EDATHARA, VADASSERIKKARA VILLAGE,
RANNI.

4. P.S. INDIRA KUMARI, M/S. K.S. VINEETH,
VINOD BHAVAN, EDATHARA, VADASSERIKKARA VILLAGE,
RANNI.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.33596 of 2007

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Dated this the 14th day of November, 2007.

JUDGMENT

This Writ Petition is filed to direct the Munsiff, Ranni to remove O.S.Nos. 96 of 1995, 111 of 2005 and 79 of 2005 from the final list for trial scheduled on 16.11.2007 till the mahazar and survey plan are filed by the Advocate Commissioner appointed in I.A.No.1316 of 2006 in O.S.No.96 of 2005. The suits relates to fixation of boundaries and other reliefs and it is important to get Surveyor's plan and report for a proper disposal of the matter. Most probably taking into consideration this situation, the court has appointed a Commissioner.

2. It is informed that on account of lack of availability of plan or other matters, the Commissioner is not able to complete the work and submit his final report. If the suit is listed for trial and proceeded with without a proper plan, it will cause serious prejudice and there cannot be a proper decision in the matter.

This court in the Writ Petition has also held that the third suit, O.S.No.79 of 2005 has to be tried along with the other case though not jointly disposed of. So considering the fact that even now the Commissioner has not filed his report, it is not fair to include the suit in the list and try the same.

3. Therefore, the Writ Petition is allowed and the learned Munsiff is directed to remove all the three Suits from the list scheduled on 16.11.2007 and direct the Commissioner to expedite the matter and submit a proper survey plan and report and thereafter permit the parties to file objections, if any, and then dispose of the matter in accordance with law.

M.N.Krishnan,
Judge.

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